

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

MICHAEL ALAN CRUZEN,

Petitioner,

v.

**Civil Action No. 1:06cv137
(Judge Keeley)**

AL HAYNES,

Respondent.

ORDER DENYING MOTION FOR PROTECTION OF EVIDENCE

On September 11, 2006, the *pro se* petitioner, Michael Alan Cruzen, a federal inmate, filed an Application for Habeas Corpus Pursuant to 28 U.S.C. § 2241. On May 31, 2007, he filed a Motion for Protection of Evidence Order by the Court.

In his Application for a Writ of Habeas Corpus, the petitioner challenges the results of a Bureau of Prisons' disciplinary action that resulted in his losing Good Conduct Time credits and certain privileges. The petitioner alleges in his pending motion that the one piece of evidence that will prove his innocence is the video tape of the evidence. Because he believes it probable that the video in question will be lost or destroyed before he is able to conduct discovery, the petitioner asks this Court to issue an Order to protect and preserve the video tape of the Segregation Housing Unit at FCI Manchester for the date of February 13, 2006.

The Court's review of disciplinary proceedings is limited to a determination of whether the

petitioner has been afforded the due process guarantees set forth in Wolff v. McDonnell, 418 U.S. 539 (1974). Those guarantee do not include a *de novo* review of the evidence presented during the disciplinary hearing. Accordingly, the petitioner's request for an order preserving the tape is beyond the scope of review.

Accordingly, the petitioner's Motion for Protection of Evidence Order by the Court (Doc. 22) is hereby **DENIED**.

IT IS SO ORDERED.

The Clerk is directed to mail a copy of this Order to the plaintiff at his last known address as reflected on the docket sheet. The Clerk of the Court is further directed to prove a copy to all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic case Filing in the United States District Court for the Northern District of West Virginia.

DATED: September 20, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE